



**ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
CITY COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, CITY HALL  
FEBRUARY 13, 2012  
1:30 P.M.**

Mr. Rick Cordova called to order at 1:30 p.m.

Mr. Art Rubio explained that the Chair and Vice-Chair would not be present for the meeting today. He requested that the Board Members nominate and vote a Board Member to be Vice-Chair.

***MOTION:***

Motion made by Mr. Skarda, seconded by Mr. Garland and **UNANIMOUSLY CARRIED TO ELECT MR. RICK CORDOVA ~~VICE-CHAIR~~ CHAIR PRO TEM FOR THE MEETING TODAY.**

Ms. Osborn reiterated the Chair and Vice-Chair were not present today. She clarified the title for Mr. Cordova would be *Chair Pro-Tem* as the Vice-Chair has already been designated.

The following Board Members answered roll call:

Mr. Ken Gezelius  
Mr. Robert Garland  
Mr. Robert Concha, Jr.  
Mr. Scott Walker  
Mr. Rick Cordova, *Chair Pro Tem*  
Mr. Sam Barela  
Mr. Jeff Gonzalez  
Mr. James Wolff  
Mr. Lamar Skarda



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The following City Staff were present:

1. Mr. Art Rubio, Planning & Economic Development, Senior Planner for Ms. Linda Castle, Planning & Economic Development, Zoning Board of Adjustment Coordinator
2. Mr. Frank Mejia, Building Permits and Inspections, Plans Examiner for Mr. Juan Estala, Building Permits and Inspections, Chief Plans Examiner
3. Ms. Cynthia Osborn, City Attorney's Office, Assistant City Attorney

*There were no changes to the agenda.*

**ITEM 1:**

PZBA11-00040                      14200 Rattler Point Drive                      Zia Homes  
Applicant requests a Special Exception under Section 2.16.050 G (Builder Error, Side Yard Setback) in an R-5 (Residential) zone. This would permit a 0.3' encroachment into the westerly side yard setback for a new residential structure, to within 4.7' of the side property line. The required side yard setback is 5 feet in the R-5 zone district. Zia Homes has submitted a letter explaining the construction error in setting the forms. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION G.**

Mr. Rubio gave a PowerPoint presentation.

Mr. Conrad Conde, Conde, Inc., representing the applicant, was present to answer any questions Board Members might have.



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The following commented and/or asked questions:

1. Mr. Gezelius
2. Chair Pro Tem Cordova
3. Ms. Osborn
4. Mr. Skarda

**MOTION:**

Motion made by Mr. Skarda, seconded by Mr. Garland and **UNANIMOUSLY CARRIED TO APPROVE.**

**SWEARING IN**

Prior to discussing Item 2, Chair Pro Tem Cordova asked anyone who would be giving testimony today to stand, raise their right hand and be sworn in.

**ITEM 2:**

PZBA11-00041                      14192 Rattler Point Drive                      Zia Homes  
Applicant requests a Special Exception under Section 2.16.050 G (Builder Error, Side Yard Setback) in an R-5 (Residential) zone. This would permit a 0.2' encroachment into the easterly side yard setback for a new residential structure, to within 4.8' of the side property line. The required side yard setback is 5 feet in the R-5 zone district. Zia Homes has submitted a letter stating the construction error in setting the forms. This is the third request for Zia Homes since September 2011. They cannot request the builder error Special Exception again until September 2012 (see Builder Error Log). **STAFF RECOMMENDATION IS FOR APPROVAL AS THE REQUEST MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION G.**

Mr. Rubio gave a PowerPoint presentation and read into the record the letter submitted by Zia Homes explaining the builder error.

The following commented and/or asked questions:

1. Chair Pro Tem Rick Cordova



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Mr. Conrad Conde, Conde, Inc., representing the applicant, was present to answer any questions Board Members might have.

**MOTION:**

Motion made by Mr. Garland, seconded by Mr. Skarda and **UNANIMOUSLY CARRIED TO APPROVE.**

*Prior to the meeting, Staff distributed copies of the revised Memorandum from Building Permits and Inspections and revised plans submitted by the applicant.*

**ITEM 3:**

**REVISED REPORT**

PZBA12-00001                      1100 Saint Johns Drive                      Gerardo Espinoza  
Applicant requests a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-4 (Residential) zone. This would permit an existing 15'4" by 22'10" carport which encroaches in the front yard setback and is located to within 1 foot of the front property line. The required front and rear yard cumulative setback total is 45 feet in the R-4 zone district. The applicant is requesting to legalize an existing carport in the front yard setback. There is another existing porch/carport that encroaches into the side street setback to 0' of the side street property line which the applicant is required to cut back to be 10 feet from the side street property line. The applicant's plans indicate that the carport in the front setback does not rise higher than the roof of the house and will be modified with brick columns and shingle roof to match the house. Building Permits & Inspections has reviewed revised structural plans and provided written approval of the plans. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST FOR THE EXISTING CARPORT THAT ENCROACHES IN THE FRONT YARD SETBACK, WITH MATERIALS AS SHOWN ON THE SITE PLAN AND TO INCLUDE THE CONDITION THAT THE PORCH WHICH ENCROACHES IN THE SIDE**



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**STREET YARD SETBACK IS CUT BACK TO BE 10 FEET FROM THE SIDE STREET PROPERTY LINE.**

Mr. Rubio gave a PowerPoint presentation.

Mr. Luis Flores, representing the applicant, responded to comments and/or questions from Board Members and Staff.

The following commented and/or asked questions:

1. Chair Pro Tem Cordova
2. Mr. Rubio
3. Ms. Osborn
4. Mr. Mejia
5. Mr. Wolff
6. Mr. Sam Barela

Depending on the motion, Chair Pro Tem requested Board Members ensure there are no platted utility easements.

Mr. Garland commented on the originally submitted S1 structural drawings and revised engineer sealed S1 structural drawings.

Ms. Osborn explained the city does not regulate architects or engineers. If Mr. Garland feels the plans were sealed improperly, he should file a complaint with the proper agency.

**MOTION:**

Motion made by Mr. Gonzalez, seconded by Mr. Skarda and **UNANIMOUSLY CARRIED TO APPROVE WITH THE STAFF RECOMMENDATION REQUEST AND TACK ON THE UTILITY EASEMENTS FOR VERIFICATION.**



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*Prior to the meeting, Staff distributed copies of the revised Memorandum from Building Permits and Inspections.*

**ITEM 4:**

PZBA12-00002                      5853 Clydesdale Drive                      Juan A. & Maria L. Escalera  
Applicants request a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-3/sc (Residential/special contract) zone. This would permit a 23' by 21' carport that is proposed to encroach into the front yard setback and to be located to within 1 foot of the front property line. The required front and rear yard cumulative setback total is 50 feet in the R-3/sc zone district. The applicants are requesting a carport which will encroach in the front yard setback. According to the submitted plans, the other additions at the front of the house do not encroach into the required front yard setback. The drawings indicate that the carport will not rise higher than the roof of the house and will match the house in design and materials. Building Permits & Inspections has reviewed and provided written approval of the carport structural plans.  
**STAFF RECOMMENDATION IS FOR APPROVAL OF THE CARPORT AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION J.**

Mr. Rubio gave a PowerPoint presentation.

Mr. Andres Lopez, representing the applicants, responded to comments and/or questions from Board Members and Staff.

The following commented and/or asked questions:

1. Chair Pro Tem Cordova
2. Mr. Rubio
3. Mr. Garland
4. Mr. Mejia
5. Mr. Skarda



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**MOTION:**

Motion made by Mr. Garland, seconded by Mr. Gezelius **TO APPROVE**.

**AMENDED MOTION:**

Motion made by Mr. Garland, seconded by Mr. Walker and **UNANIMOUSLY CARRIED TO APPROVE PENDING VERIFICATION OF THE FRONT EASEMENT.**

**ITEM 5:**

PZBA12-00003      289 Atlantic Road      Ricardo Ramirez (Noehmi Ramirez)  
Applicants request a Special Exception under Section 2.16.050 H (Lot Size) in an R-5 (Residential) zone. This would permit the construction of a two-family dwelling (duplex) on a 5,500 square foot lot. The lot area requirement for a duplex in the R-5 zone district is 6,000 square feet. The applicants are requesting to construct a duplex on a lot that meets the lot depth and width requirements (90 feet and 50 feet, respectively) for a duplex in the R-5 zone district, but does not meet the required lot area requirement of 6,000 square feet. The lot is 100 feet deep and 55 feet wide. The lot area is 5,500 square feet which is 92 percent of the required 6,000 square feet. The site plan shows yard setbacks that meet the district requirements; two lots of the 113 lots in the Pacific Park subdivision have been granted this Special Exception and this lot would be the third, or a total of 2.6 percent of the subdivision. Please see survey (enclosed) of Pacific Park subdivision, listing ZBA cases and Special Permit granted by City Council with summary regarding the number of duplexes in the subdivision. We have received one letter (enclosed) in opposition to the request from a neighboring property owner who says there are too many duplexes and that the cul-de-sac is crowded with vehicles parking on the street. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS FOR THE SPECIAL EXCEPTION H FOR DEVELOPMENT OF A DUPLEX.**



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Mr. Rubio gave a PowerPoint presentation and referred to the letter of objection (copy of letter included in the packet).

Mr. Ricardo Ramirez, owner, responded to comments and/or questions from Board Members and Staff.

The following commented and/or asked questions:

1. Mr. Gezelius
2. Mr. Gonzalez
3. Mr. Wolff
4. Chair Pro Tem Cordova
5. Mr. Rubio

Chair Pro Tem Cordova asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

**MOTION:**

Motion made by Mr. Skarda, seconded by Mr. Walker and **UNANIMOUSLY CARRIED TO APPROVE.**

**ITEM 6:**

PZBA12-00005                      12529 Tierra China Court                      Max J. Martinez  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3A (Residential) zone. This would permit a 12' by 20' addition of which approximately 200 square feet is proposed to encroach into the required rear yard setback and to be located to within 16 feet of the rear property line. The front and rear yard cumulative setback total is 45 feet in the R-3A zone district. The applicants are requesting an addition which will encroach into the required rear yard setback. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C.**



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Mr. Rubio gave a PowerPoint presentation.

Mr. Max Martinez, applicant, responded to comments and/or questions from Board Members and Staff.

The following commented and/or asked questions:

1. Chair Pro Tem Cordova
2. Mr. Sam Barela
3. Mr. Rubio

Chair Pro Tem Cordova asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

Staff did not receive any telephone calls, emails or letters in favor of or in opposition to the request.

**1<sup>st</sup> MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Gonzalez **TO APPROVE**.

**2<sup>nd</sup> MOTION:**

Motion made by Mr. Gonzalez, seconded by Mr. Gezelius **TO APPROVE PZBA12-00005 AS IS NOW**.

Pro Tem Cordova explained the site plan was not complete; the storage shed is not shown. He requested Staff verify the storage shed meets all the requirements.

Mr. Rubio explained permits will not be granted if the applicant does not meet Code requirements. Mr. Mejia concurred.



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**3<sup>rd</sup> AND FINAL MOTION:**

Motion made by Mr. Gonzalez, seconded by Mr. Gezelius **TO APPROVE AND UNANIMOUSLY CARRIED TO APPROVE PZBA12-00005 WITH THE STAFF RECOMMENDATIONS AND THE ADDITION OF THE VERIFICATION OF THE REAR YARD SETBACKS, UTILITY EASEMENT AND SHED.**

**ITEM 7:**

PZBA12-00006                      6708 Amposta Drive                      Rod Stogner  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would permit a 12' by 12' addition of which approximately 50 square feet is proposed to encroach into the required rear yard setback to within 21 feet of the rear property line. The front and rear yard cumulative setback total is 50 feet in the R-3 zone district. The applicant is building additions to his house, one of which is an addition that will encroach into the required rear yard setback. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C.**

Mr. Rubio gave a PowerPoint presentation and noted Staff did not receive any telephone calls, emails or letters in favor of or in opposition to the request.

The following commented and/or asked questions:

1. Chair Pro Tem Cordova
2. Mr. Gonzalez
3. Mr. Garland
4. Mr. Walker

Chair Pro Tem Cordova asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.



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**MOTION:**

Motion made by Mr. Walker, seconded by Mr. Garland and **UNANIMOUSLY CARRIED TO APPROVE.**

**Other Business:**

8. Approval of Minutes: December 12, 2011

Chair Pro Tem Cordova asked Board Members if they had any additions/corrections/revisions to the minutes.

**MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Walker **AND UNANIMOUSLY CARRIED TO APPROVE THE DECEMBER 12, 2011 MINUTES.**

**AYES:** Messrs. Gezelius, Concha, Jr., Cordova, Walker, Gonzalez and Skarda

**ABSTAIN:** Messrs. Garland, Barela, Wolff

Motion passed. 6-3

**MOTION:**

Motion made by Mr. Gezelius **AND UNANIMOUSLY CARRIED TO ADJOURN AT 2:20 P.M.**

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Linda Castle, Senior Planner



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